

Annual Report

October 1, 2002 - September 30, 2003

Prepared for:
The Board of Trustees
Morris K. Udall Foundation

October 27, 2003

Introduction

During FY 2003, the U.S. Institute for Environmental Conflict Resolution (the Institute) entered its fifth year of operation, continuing to attract significant cases and projects within its established performance sectors, which include:

- Public Lands and Natural Resources Management
- Litigation and Administrative Proceedings
- Protected Areas and Resources
- Energy, Transportation and Environmental Quality, and
- Native American and Alaska Native Environmental Program

This annual report has been prepared for the Board of Trustees of the Udall Foundation to provide an overview of the Institute's activities and major accomplishments during this milestone year October 1, 2002 to September 30, 2003.

The four sections in this report correspond to the Institute's long-term strategic goals. The Institute's progress and major accomplishments in reaching these goals are detailed in each section. The Institute's long-term strategic goals are to:

1. Increase appropriate and effective use of environmental conflict resolution (ECR).
2. Design more effective systems for managing classes of environmental disputes by the federal government.
3. Achieve high quality collaborative agreements and resolutions for environmental conflicts involving federal agencies and interests.
4. Improve capacity for all stakeholders to participate in environmental conflict resolution when appropriate.

During FY 2003 the Institute was involved in over 150 case consultations, assessments and process designs, mediations and process facilitation, national policy dialogues, dispute systems designs, alternative dispute resolution (ADR) program development initiatives, training and workshop sessions, and referrals of practitioners to parties and process sponsors. See Figure 1 for the location of these activities.

The Institute provided management and/or direct services on over 50 site-specific projects (including assessments and process designs, mediations and process facilitations). Included among these projects were: the Grand Canyon overflight noise controversy (Arizona), the Everglades Collaborative Water Management Planning (Florida), Mount Hood National Forest Recreation Plan development (Oregon), Upper Klamath Basin Watershed restoration planning (Oregon), Fire Island National Seashore Off-Road Driving Negotiated Rulemaking (New York), a major tribal trust claims case, and two major national transportation projects – the St. Croix River Crossing between Minnesota and Wisconsin and the Riverside County (California) Community Environmental and Transportation Acceptability Process.

Figure 1. Distribution of the Institute Services



The Institute continues to play an ever-increasing role in assisting agencies as they institutionalize ADR. The Institute's efforts included continued program development assistance, the design of dispute resolution systems, and the facilitation of intra-agency, interagency, and national policy dialogues and workshops. Examples of such capacity building initiatives include: Federal Highway Administration Environmental Streamlining Guidance, Bureau of Land Management (BLM) national situation assessment and program design and Interior Board of Land Appeals ADR system development.

1. Increase appropriate and effective use of environmental conflict resolution (ECR)

During FY 2003, the Institute met the goal of increasing the appropriate and effective use of ECR by providing professional screening and triage of all inquiries, providing referrals of qualified practitioners from the Roster of ECR Practitioners to project stakeholders, providing ECR services, leveraging demonstration projects and facilitating national policy dialogues.

Screening and Triage of Inquiries - During FY 2003 the Institute continued to serve as a central source for agencies seeking conflict resolution services. By providing professional screening and triage for all inquiries, the Institute staff learned enough about the disputes and the stakeholders to counsel on whether the cases were appropriate for dispute resolution processes. The majority of the inquiries handled by the Institute during FY 2003 (close to 300) came from federal agencies (headquarters and regional offices), but requests also came from state and local government agencies, environmental groups, resource users, and other practitioners.

Referrals from the Roster of ECR Practitioners - The Institute's roster continues to be developed as a national resource for stakeholders looking for qualified practitioners with environmental experience. Currently, there are 230 qualified practitioners on the Institute roster located in 38 states, the District of Columbia, and two Canadian provinces (see Attachment A: National Distribution of roster members by state).

During FY 2003, in addition to providing referrals to staff for sector-related projects, the roster manager provided 37 referrals to external requesters. Other federal agency staff with direct access to search the roster (e.g. Environmental Protection Agency (EPA)) conducted 20 searches. In FY 2004, the referral level is expected to increase when the roster on-line database becomes publicly available on the Institute's website. Outreach/information pieces to increase the awareness and use of the roster are also currently being developed.

Through an interagency agreement with the Federal Highway Administration, the Institute has assembled a roster of qualified practitioners with particular experience in transportation cases. The transportation sub-roster ("Transportation Roster of Mediators and Facilitators") currently has 39 professionals. Through this tool, sub-roster members are now being referred to agencies involved in developing and reviewing transportation projects for assistance in crafting partnerships, developing project timelines, improving agency relationships, and resolving disputes.

ECR Project Management & ECR Direct Services - The Institute provided services for 52 site-specific ECR processes. These projects were in varying stages of implementation in FY 2003. Some were in the initial assessment and process design phases, others were in the facilitation or mediation stage, while several projects involved long-term proactive planning efforts (see Goal 3 for highlights).

Funded Service Agreements

The Institute had 11 funded service agreements in place during FY 2003. The service agreements provide the general framework of cooperation between the Institute and federal agencies in resolving environmental and natural resource conflicts. Agencies with service-wide agreements have access to the full range of the Institute's services.

The agencies with service agreements included:

FY 2003 Funded Service Agreements

1. Department of Interior
 - Office of Collaborative Action and Dispute Resolution
2. - National Park Service
3. - Office of Hearings and Appeals
4. - Office of Surface Mining
5. - BLM National Office
6. - BLM Oregon State Office
7. - BLM Arizona State Office
8. Department of the Navy
9. Department of Transportation - Federal Highway Administration
10. Environmental Protection Agency
11. Department of Commerce - National Marine Fisheries Service

Leveraging More Use of ECR by Co-funding Demonstration Projects - Projects this fiscal year included 12 *Federal ECR Partnership Program (FPP)* projects continuing from FY 2002. These projects were initiated to provide in-kind assistance and cost sharing to federal agencies in need of support for *specific* ECR cases or projects. The program was designed to increase awareness and use of ECR within the federal government, provide incentives and guidance for the effective use of ECR, and encourage innovative applications and demonstration projects. The FPP has supported projects involving partnerships with several federal agencies (EPA, BLM, Bureau of Reclamation, U.S. Fish and Wildlife Service, National Park Service, the USDA-US Forest Service, and the Department of Energy).

In FY 2003, the Institute managed four *ECR Participation Program (ECR PP)* assessment projects that were funded during FY 2002. These projects were designed to assist non-federal parties engaged in ECR processes. The ECR Participation Program provided guidance, technical assistance, and neutral services valued up to \$20,000 for each conflict assessment project. Those benefiting from the ECR PP include resource users such as ranchers and farmers, community groups, tribes, state and local governments, and non-governmental organizations whose participation would be needed to assure balanced stakeholder involvement in processes involving federal agencies or interests.

National Policy Dialogues - During FY 2003, the Institute guided a number of national policy dialogues to facilitate the appropriate and effective use of ECR. FY 2003 national policy dialogue highlights include:

National Policy Dialogue on Impacts of Anthropogenic Sound on Marine Mammals and Their Habitat - Congress recently tasked the Marine Mammal Commission with examining the threats posed to marine mammals from anthropogenic sound and to develop management recommendations for how to mitigate these impacts while maintaining use of the oceans for transportation and international commerce. In response, the Commission has decided to convene a national policy dialogue to aid it in developing its recommendations. Because of the highly controversial nature of the issues, the Commission sought the impartial process expertise and independence of the Institute to help select and oversee the work of a neutral facilitation team to plan and conduct a multi-stakeholder advisory process convened under the provisions of the Federal Advisory Committee Act. The planning and convening process is currently underway and the initial meeting of the advisory committee is expected to take place in late January 2004. The project is expected to conclude in April 2005.

Native American and Alaska Native Practitioners Network Project - In January 2003, the Institute began developing the Native American and Alaska Native ECR Practitioners Network. Once established the network will provide centralized, broadly accessible referral system of dispute resolution practitioners with the knowledge and experience needed to assist parties involved in environmental, natural resource or public and trust land issues where Native Americans, Alaska Natives and Native Hawaiians and federal agency staff are primary parties. The primary objectives of the network include:

- Encourage the appropriate use of alternative dispute resolution and agreement seeking processes in matters between Native American, Alaska Native and Native Hawaiians, and federal agencies or interest.

- Broaden the diversity of the field of alternative dispute resolution by establishing a network and information exchange for practitioners who work with Native peoples.
- Increase the skills and expertise of conflict resolution practitioners and improve the ability of all parties to engage effectively in ADR processes.

The Institute is working with a coordination team of representatives of Native American and Alaska Native courts, practitioners, and representatives from federal agencies to develop ideas for the network approach and ultimately to identify and recruit Native American and Alaska Native practitioners to the network. The network project, funded by the William and Flora Hewlett Foundation is being developed under the guidance of the manager of the Institute's Native American and Alaska Native Environmental Program with assistance from the Institute's roster manager.

National ECR Advisory Committee (NECRAC) - In 2003, the Institute established a federal advisory committee to provide advice regarding future program directions, including: its role in implementing section 101 of the National Environmental Policy Act (NEPA) of 1969; identification of critical environmental, natural resources, and public lands issues; opportunities to further the use of collaborative processes; areas in which conflict resolution services are needed; new directions in the field of conflict resolution; and evaluation of services and programs. The first meeting of the NECRAC was held in Tucson, Arizona, November 19-20, 2002. Three subcommittees and a steering committee were established at that meeting. The subcommittees are focusing their work on best practices in the field of ECR, on implementation of NEPA Section 101 as it relates to the Institute's Congressional charge, and on guidance for the effective participation of affected communities often underrepresented in ECR processes. The role of the steering committee is to integrate and synthesize the work of the subcommittees with the NECRAC as a whole. The committee's second meeting was held in June 2003 in Berkeley Springs, West Virginia outside of Washington, DC, and a third meeting is scheduled for November 2003 in Tucson.

2. Design more effective systems for managing classes of environmental disputes by federal agencies.

During FY 2003, the Institute staff worked directly with several federal agencies in developing national, system-wide efforts to institutionalize more effective ECR programs. FY 2003 highlights include:

FHWA Environmental Streamlining and Intergovernmental Conflict Management - The Institute has continued its assistance to the Federal Highway Administration's Environmental Streamlining and Stewardship Program in the areas of conflict management and dispute system design. Assistance included the establishment and promotion of the Transportation Roster of Mediators and Facilitators.

BLM National Situation Assessment and Program Design - BLM requested a system-wide situation assessment of the use of Natural Resources ADR services, both for proactive planning (within their national resource management planning processes), and in terms of opportunities to review and refer appeals. The Institute completed that assessment in

January 2003. It has been distributed widely within the BLM and the Department of the Interior. The Institute hosted a follow-up meeting in Tucson in March 2003, with the Natural Resources ADR Group to discuss the findings presented in the assessment, to follow up on recommendations for system-wide enhancement of Natural Resources ADR programs, and to assist in strategic planning.

USDA Forest Service Partnership Task Force, Design Considerations for the Development of Collaborative Resource Teams - The USDA Forest Service initiated this new national program to promote partnership and collaborative processes throughout the agency. The Institute was asked to work with the Task Force to conduct a situation assessment to provide the basis for the design of a national system supporting partnership building and collaboration within the Forest Service.

DOI Office of Hearings and Appeals, Interior Board of Land Appeals (IBLA), Pilot Program Development - The Institute has established a partnership with the U.S. Department of Interior's Office of Hearings and Appeals and DOI's Collaborative Action and Dispute Resolution Office (CADR) to assist in building the capacity for and use of alternative dispute resolution and environmental conflict resolution within IBLA. This project involves the development of an ADR referral system.

3. Achieve high quality collaborative agreements and resolution for environmental conflicts involving federal agencies and interests.

Achieving excellence in case-based project activities helps resolve environmental conflicts and helps demonstrate, extend and further develop the use of ECR services. During 2003, the Institute was involved in over 50 ECR processes (both upstream collaborative processes and downstream dispute resolution projects). The Institute pursued its goal of achieving high quality collaborative agreements, which include collaborative decisions in the form of plans, proposals, recommendations or signed formal agreements. This has led to the Institute's continued investment in a comprehensive program evaluation system that is beginning to provide the feedback necessary for reflective practice and informed program improvements. The following are highlights of new, continuing and recently completed projects. (See Appendix B for a complete list of the Institute's FY2003 cases and projects)

Highlights from Projects Completed during FY 2003:

Fire Island National Seashore Off-Road Driving (New York) -- Fire Island National Seashore needed to develop new off-road driving regulations to better protect the fragile barrier island, which also provides critical habitat for endangered species. With no established roads, the beaches serve as the primary auto access for the island's year-round and seasonal residents. Through its Federal Partnership Program, the U.S. Institute assisted in providing process design and neutral facilitation services for a negotiated rulemaking process using a multi-stakeholder advisory committee. The process recently concluded, and the National Park Service has incorporated the advisory committee's consensus-based recommendations into the proposed new regulations.

Hanford Reach National Monument White Bluffs Assessment - Landslides into the Columbia River from the steep bluffs along the shoreline have proven to be one of the most significant management issues for the newly established Hanford Reach National Monument. The frequent sloughing and occasional major landslides continue to impact Native American archeological sites and some of the most productive salmon spawning areas in the Columbia River. Although the causal mechanisms are not well understood, it's thought that the sloughing may be exacerbated by irrigation practices on agricultural lands on top of the bluffs. Not surprisingly, interpretation of the limited scientific studies completed to date and debate over their management implications has been highly controversial. As a result, the U.S. Fish and Wildlife Service sought conflict resolution expertise and matching funding assistance through the Institute's Federal Partnership Program. Working through its team of contracted mediators, the Institute conducted an initial situation assessment and then designed and conducted a series of technical workshops to develop consensus-based recommendations regarding how to develop an informed scientific basis for addressing the management related issues associated with the eroding bluffs. These recommendations were then incorporated into the initial management plan for the Monument.

BLM Dillon Resource Management Plan Development (MT) - The Montana/Dakotas Office of the BLM investigated collaborative planning approaches for the development of a resource management plan for the Dillon, Montana area. The Institute approved a Federal Partnership Program (FPP) to conduct conflict assessment for this process. The Montana Consensus Council conducted the assessment, completed in June 2001. The assessment report offered recommendations for a collaborative public involvement process. A Phase II FPP proposal requested funding for implementing the recommendations of the assessment. During the project, activities have included facilitation of several working groups (travel and OHV management, designation of Areas of Critical Environmental Concern – ACECS, and wilderness designation), which have completed their tasks and offered their recommendations to the Resource Advisory Committee (RAC). A Citizens Coordinating Committee has also been working with the RAC to monitor collaborative planning efforts and to provide suggestions for improvement.

Progress Highlights on Continuing Projects from FY 2002:

St. Croix River Crossing (MN & WI) - Continuing work on this case focused on designing a collaborative problem-solving process (Phase II) to reach agreement on both a new bridge and the historic lift bridge over the St. Croix River at Stillwater, MN, and facilitating several meetings among all the principal stakeholders. Significant progress has been made in 1) planning the near-term rehabilitation of the lift bridge, 2) negotiating an agreement to mediate among an inclusive stakeholder group, and 3) identifying and narrowing alternative solutions to the transportation problem in what has become a new scoping process under NEPA. A decision on an preferred alternative and completion of the NEPA process is expected in Summer 2004. This case is one of 13 high priority cases identified by the interagency task force on environmental stewardship and streamlining established by Executive Order 13274.

Mt. Hood National Forest Recreation Plan (OR) - The goal of this project is to engage Mount Hood area stakeholders in the development of a long-term strategic plan for recreation management. The project focuses on relationship building, issues framing and prioritizing, and the crafting of agreements over decision-making processes. A broad initial assessment of stakeholder perspectives, interests, and concerns and the identification of process design recommendations for collaborative decision making were completed during FY 2003. The Institute's Federal Partnership Program and the Oregon State Dispute Resolution Program support the project. This project has now entered Phase II.

Everglades Collaborative Water Management Planning (FL) - The Institute's involvement with this project, which began in January 2001, initially focused on helping the U.S. Army Corps of Engineers, Everglades National Park, U.S. Fish and Wildlife Service, and the South Florida Water Management District reach agreement on an interim operating plan for the Central and South Florida Water Management Project to avoid jeopardy to the Cape Sable seaside sparrow, an endangered species listed under the Endangered Species Act. Agreement was reached after nearly a year and a half of intensive interagency negotiations and completion of an EIS process. The four agencies have since committed to continue working together collaboratively in conducting a much more extensive and highly technical EIS to develop a combined structural and operating plan for two long-delayed projects that have been previously authorized by Congress to implement a more permanent solution for restoring the natural hydrologic conditions to the southeast portion of Everglades National Park, without increasing the risk of flooding to adjacent agricultural lands. Completion of these projects is considered an essential prerequisite for successful implementation of the Comprehensive Ecosystem Restoration Plan for South Florida, a \$7.8 billion project to be jointly funded by the federal government and the State of Florida over the next 30 years. Now that the agencies have recently reached an important fundamental agreement on the parameters of the EIS, a multi-stakeholder advisory committee has been formed to provide an opportunity for direct stakeholder participation in collaboratively developing the preferred alternative and to help ensure broad public support for the U.S. Army Corps of Engineers' final Record of Decision. The target date for completion of the EIS is December 2005.

FY 2003 New Project Highlights:

Community Environmental Transportation Acceptability Project (CETAP) (CA) - The CETAP in Riverside (CA) began as a corridor-level highway planning effort in Riverside County. Conflicts between the local transportation agency and various federal environmental review agencies emerged as the process moved toward selecting preferred corridors. This threatened to force a cessation of planning efforts. With the assistance of a member of the Institute's Transportation Roster of Mediators and Facilitators, an expedited conflict assessment was conducted and reviewed by the participants. The assessment's primary recommendation – that a facilitator be hired to guide the process – was accepted. The Institute then assisted the stakeholders in selecting a facilitator by: establishing criteria, identifying candidates, and assessing qualifications. Under the guidance of the selected facilitator, who is a contractor with the Institute, the CETAP process is back on track. The participants have decided to forgo the corridor-level effort and focus on specific highway

alignments. Significant progress has been made in narrowing project alternatives and in agreeing on what environmental assessments will be needed and how they will be funded. The process timeline extends through spring 2004. This case is one of 13 high priority cases identified by the interagency task force on environmental stewardship and streamlining established by Executive Order 13274.

Grand Canyon Aircraft Overflight Noise (Arizona) – The Institute is conducting an assessment of the possibility for a collaborative resolution of overflight noise issues at the Grand Canyon. In 1989, Congress directed the National Park Service and the Federal Aviation Administration to work together to reduce noise from air tour aircraft over Grand Canyon National Park and to “substantially restore natural quiet.” Despite some improvements resulting from designation of specific air tour routes and limits on the number of air tours, the Park Service and FAA acknowledge that the congressional directive has still not been achieved. The agencies disagree about their respective jurisdictions and how to restore “natural quiet.” The Institute has started conducting the assessment with the agencies and will subsequently include other interested and affected stakeholders. If the assessment indicates that the agencies and key stakeholders are willing to participate in a good-faith effort to negotiate a collaborative solution to the overflight noise issues, the next step will be a mediated process.

Lake Tahoe Basin Collaborative (California and Nevada) – The Lake Tahoe basin area is characterized by a complex bi-state permitting system, multi-agency and overlapping jurisdictions, and an active, engaged, and concerned public. Several large-scale land management planning and ecosystem restoration programs have recently been initiated in the Basin; successful implementation of these programs will require broad stakeholder support, as well as cooperative planning and implementation by a range of local, state and federal agencies and private and non-profit entities. The U.S. Institute has been engaged to provide neutral facilitation assistance to a fledgling Lake Tahoe Basin Stakeholder Collaborative. The Institute has partnered with California State University’s Center for Collaborative Policy to conduct an initial situation assessment and then provide process design and facilitation for a multi-agency effort to integrate and align individual agency planning processes. Implementation of project components is expected to take place over a 10-year timeframe.

4. Improve capacity for all stakeholders to participate in ECR when appropriate.

During 2003, the Institute was involved in a broad array of stakeholder capacity building initiatives. They included:

- formal training sessions and numerous informal stakeholder training sessions integrated into project activities,
- cross-case visits and exchanges to foster learning and capacity building,
- agency-wide capacity building efforts,
- interagency capacity building workshops, and
- ECR field-wide capacity building efforts.



FY 2003 accomplishments include:

Training events in project contexts and non-project contexts (both formal and informal)

Several of the Institute's FY 2003 projects integrated stakeholder-training events into project activities. For example, within the Institute's Public Lands and Natural Resource Management Sector, project-based training efforts were conducted at the BLM Lower Snake River District, and in the following National Forests: Green Mountain (VT), Finger Lakes (NY), Grand Mesa, Uncompagre, and Gunnison (CO), Bankhead (AL), and Dixie/Fishlake (UT). In addition to these integrated stakeholder-training events, numerous formal training events were conducted by Institute staff in non-project specific contexts. See Appendix B for a list of trainings and workshops conducted in FY 2003.

Cross-case visits and exchanges among project participants

During FY 2003, cross-case visits and exchanges offered important learning experiences for interested stakeholders. Cross visits were conducted between the GMUG and Dixie/Fishlake National Forests and promoted and encouraged for several other projects.

Agency-wide workshops designed to improve the capacity of ADR specialists and administrators

During FY 2003, the Institute facilitated a number of workshops to improve the capacity of ADR specialists and administrators: Highlights include:

EPA Meeting on Environmental ADR - Institute staff facilitated a meeting involving the EPA's Conflict Prevention and Resolution Center and ADR specialists in EPA's regional offices. The workshop was designed to improve working relationships and help fashion a strategy for improving the visibility of EPA's ADR program and delivery of services.

Environmental ADR Evaluation Meeting - The Institute's evaluation outreach efforts include making available to other federal ECR programs the Institute's evaluation instruments, protocols and experience to assist them in developing and implementing their own program evaluation systems. Upon the request of the Institute, the Office of Management and Budget (OMB) added the EPA's Conflict Prevention and Resolution Center (CPRC) as a named administrator of the Institute's evaluation instruments. The CPRC will use the Institute's evaluation instruments to evaluate CPRC's alternative dispute resolution programs and projects. This evaluation effort was launched at an Environmental ADR Evaluation Meeting held in Washington, DC, in March 2003.

BLM ADR Specialists Steering Committee Meeting - Institute staff facilitated three-days of facilitation and education of ADR specialists from state offices of BLM. The meeting was hosted at the Institute's offices in Tucson, AZ.

Interagency workshops to improve collaborative problem solving among federal and state agencies.

The FHWA is sponsoring a national workshop series that exemplifies the type of training/workshop services developed and provided by the Institute. Ten regionally customized workshops entitled "Improving Transportation Projects Development and Environmental Reviews Through Collaborative Problem Solving" have been designed to strengthen federal and state agencies' efforts to successfully meet agency coordination and cooperation mandates of TEA-21, Section 1309: *Environmental Streamlining* and Executive Order 13274: *Environmental Stewardship and Transportation Infrastructure Project Reviews*. The workshops promote the understanding of ADR and the use of collaborative problem solving in the transportation development and environmental review process. One workshop is being offered in each of the 10 federal regions (and 2 in one region). In FY2003, five of the 11 workshops were delivered (CA, OR, RI, CO, IN).



Special projects to inform and support capacity building in the field in general

Best Practices through National Online Dialogue - Building on discussions that generated considerable interest among practitioners at 2002 National ECR Conference, the Institute – in collaboration with the Hewlett Foundation, EPA, DOI, the Association for Conflict Resolution, CONCUR, and Raab Associates – convened a web-based online dialogue to explore challenging practice issues associated with conducting conflict or situation assessments. More than 75 practitioners participated in the online dialogue. Findings from the online dialogue will be used as the foundation for further discussions to be convened by the Institute aimed at developing possible “best practice” guidance on important points to consider in designing and conducting assessments in conjunction with conflict resolution or agreement-seeking processes.

Multi-Agency ECR Evaluation Project - The Institute has partnered with five Federal and state agencies to conduct a multi-agency evaluation study to understand the key ingredients of success of ECR processes. The results of this study should shed light on ECR performance and the aspects of ECR best practices that are most important for collaborative processes and conflict resolution to be successful. The results will also shed light on which practices need to be employed by ECR practitioners and program managers more effectively. In January 2004 the Institute will host over 40 participants of a workshop involving program managers from state and federal ECR programs, ECR practitioners and trainers, and researchers who will review the study results and help identify and prioritize significant themes or issues that need to be communicated to the field to improve practice. The Institute will then work with ECR trainers to incorporate the study results in ECR training programs.

Alternative Dispute Resolution in Environment, Natural Resources and Land Use Disputes - The Institute is developing an ECR Conference in conjunction with the Federal Bar Association in Washington, DC (to occur in early 2004). At the conference, leading private sector and government environmental dispute resolution specialists will share their best techniques for resolving environmental disputes and best techniques for effectively managing collateral issues that make resolving environmental disputes so complex.

Operations Summary

Staffing Level - The Institute's staff includes 20 Full Time Equivalent (FTE) positions, including 15 full-time employees, 4.35 FTE's shared by four permanent employees and three work-study students, and a half-time information technology assistant. The Institute added a full-time receptionist in 2003 and two temporary staff persons to carry out the Federal Highway Administration contract.

Sector and Program Development - Five critical sectors were fully operational during FY 2003. They included: 1) Public Lands and Natural Resources Management; 2) Litigation and Administrative Proceedings; 3) Protected Areas and Resources; 4) Energy, Transportation and Environmental Quality, and 5) Native American and Alaska Native Environmental Program. In addition, the Institute's roster program entered its third year of operation, and the Evaluation Program completed its first year full year in operation.

Sector Highlight - *Litigation and Administrative Proceedings*

The Litigation and Administrative Proceedings Sector encompasses all types of environmental, public lands and natural resources disputes arising in administrative proceedings or litigated settings. Though many disputes are distributive in nature and may be more difficult to resolve in mediation, many are integrative or have integrative aspects. Some cases present characteristics that make them more conducive to settlements through mediated and other collaborative, agreement-seeking processes (for example, overlapping interests, on-going relationships, science and technical complexity).

The Litigation and Administrative Proceedings Sector program seeks to encourage the use of environmental conflict resolution (ECR) processes by educating administrative agencies and their appeals programs, courts, attorneys and parties about ECR's applicability (before, during and after case filing), and the mechanisms, processes and resources available in order assure that parties have an opportunity to resolve these disputes in a satisfactory manner using best ECR practices, and performing consultation, facilitation and mediation services relating thereto.

During FY 2003, in addition to establishing relationships with federal courts, including the Federal District Court for the District of Massachusetts, the Federal District Court for the Eastern District of Michigan, and the Tenth Circuit Federal Court of Appeals, the Sector focused on providing upfront, early convening services for complex cases requiring substantial consultation with agencies and potential parties in appeals and litigation matters. Other major initiatives included developing and co-sponsoring an ECR Conference with the Federal Bar Association in Washington, DC (to occur in early 2004), and the initiation of DOI Office of Hearings and Appeals, Interior Board of Land Appeals, pilot program development for an ADR referral system.

Financial Summary - The Institute's estimated actual budget for FY 2003 was \$3.45 million, including the \$1.309 million appropriated by Congress. Earned revenues from projects totaled \$1.170 million, slightly exceeding the projected annual earnings for the first time. While operating expenses were well within budget, project expenses exceeded projections somewhat (in large part due to carrying over prior year commitments for FPP projects and for outstanding costs not reimbursed in FY 2003). The Board of Trustee's Management Report provides more detailed information on the Institute's FY 2003 budget.

National Roster of Environmental Dispute Resolution
and Consensus Building Professionals (Members = 230)



Attachment B

CASES, PROJECTS AND SERVICES FY 2003

CONFLICT/SITUATION ASSESSMENTS

Completed and Active Assessments during FY 2003

Continued from FY 2002:

- Bankhead N.F. Forest Health and Restoration Initiative – Phase I* (AL)
- Tanana Chiefs Conference Assessment of Model Consultation Methods Regarding DOD Impacts Assessment** (AK)
- Recreational Shooting Assessment - BLM Tucson Office (AZ)
- Forest County Partnership Restoration Program – GMUG National Forests (CO)
- USDA Forest Service Partnership Task Force, Design Considerations for the Development of Collaborative Resource Teams – Assessment (National)
- Sun River TMDL Resolution Assessment** (MT)
- Mt. Hood N.F. Recreation Plan – Phase I* (OR)
- BLM Meadowood Farm Land Use Planning (VA)
- Green Mountain N.F. Plan Revision – Phase I* (VT)
- Skagit Basin Conflict Assessment between Tribal and Farming Communities** (WA)
- Hanford Reach National Monument Comprehensive Conservation Plan – Phase I* (WA)
- Powder River Resource Council Assessment to Negotiate Model Agreement for Coal Bed Methane Generation** (WY)

New Assessments Initiated in FY 2003:

- Grand Canyon Overflight Noise Controversy (AZ)
- Riverside Co. CETAP Controversy (CA)
- Lake Tahoe Basin Stakeholder Assessment (CA)
- Lower Owens River Project Assessment (CA)
- Everglades Combined Structural and Operational Plan Stakeholder Assessment (FL)
- Assessment for Policy Dialogue on Impacts of Anthropogenic Sound on Marine Mammals (National)
- Oregon Inlet Management EIS Process Assessment (NC)
- Conflict Assessment of Tribal Trust Assets – Phase I (OK)
- BLM Roseburg District Road Access Mediation – Phase I (OR)
- BLM Steens Mountain Wilderness Inholder Access (OR)

* Federal Partnership Program

** ECR Participation Project

MEDIATIONS AND FACILITATIONS

Completed and Active Mediations and Facilitations during FY 2003

Continued from FY 2002:

- Bankhead N.F. Forest Health and Restoration Initiative – Phase II* (AL)
- Navajo-Hopi Peacekeeper Program (AZ)
- Grazing and Environmental Compliance in the Southwest on Forest Service Lands Process – Phase II (AZ)
- BLM Santa Rosa & San Jacinto Mountains National Monument Management Plan (CA)
- GMUG N.F. Landscape Working Groups* (CO)
- Everglades Collaborative Water Management Planning – Phase IV (FL)
- Lower Snake River District Assessment, Process Design and Facilitation of Resource Management Plans and Off Highway Vehicle Planning – Phase II (ID)
- St. Croix River Crossing-- Phase II (MN)
- Collaborative Forest Restoration Partnership Program (NM)
- Fire Island Seashore Off-Road Vehicle Use Negotiated Rulemaking* (NY)
- BLM Dillon Resource Management Plan Development – Phase II* (MT)
- Mt. Hood N.F. Recreation Plan – Phase II* (OR)
- Willamette River TMDL Consensus Building (OR)*
- Willamette/Lower Columbia River Salmon Recovery Executive Committee Facilitation* (OR/WA)
- Greenhouse Gas Reduction Facilitation* (RI)
- Dixie/Fishlake N.F. Development of Proposed Action for Plan Revision* (UT)
- BLM Meadowood Farm Land Use Plan Dispute (VA)
- Green Mountain N.F. Plan Revision – Phase II* (VT)
- Finger Lakes N.F. Plan Revision – Phase II* (VT)
- Hanford Reach National Monument Comprehensive Conservation Plan – Phase II* (WA)
- BLM Cana Island Lighthouse Facilitation – Phase II (WI)

New Projects Initiated in FY 2003:

- Nogales International Wastewater Treatment Plant Mediation (AZ)
- Riverside Co. CETAP Controversy – Phase II (CA)
- Lake Tahoe Basin Stakeholder Collaboration (CA)
- Crane and Derrick Negotiated Rulemaking (National)
- EPA Mine-Scarred Lands (National)
- National Policy Makers Guidance for ECR Use (National)
- Tribal Trust Asset Mediation – Phase II (OK)
- Upper Klamath Basin Watershed Assessment Workshops (OR)
- BLM Roseburg District Road Access Mediation – Phase II (OR)

NATIONAL PROJECTS/SYSTEM DESIGNS

Completed and Active National Projects/Systems Designs during FY 2003

Continued from FY 2002:

- NEPA /ECR Initiatives – National ECR Advisory Committee
- FHWA Environmental Streamlining Intergovernmental ADR Conflict Management Guidance, Training, and Transportation Roster Management
- BLM National Situation Assessment and Program Design
- USDA Forest Service Partnership Task Force, Design Considerations for the Development of Collaborative Resource Teams – Collaborative Resource Teams
- DOI Collaborative Action and Dispute Resolution (CADR) Program Development
- DOI Office of Hearings and Appeals – Interior Board of Land Appeals ADR Referral System
- USDA Forest Service – Objections Rule Guidance

New Projects Initiated in FY 2003:

- Native American and Alaska Native ECR Practitioners Network (National)
- Multi-Agency ECR Evaluation Initiative
- Online Assessment Dialogue (National)
- DOI National Conference – The Way of the Next West
- DOI National Community Stewardship Project (4Cs)
- Policy Dialogue on Impacts of Anthropogenic Sound on Marine Mammals and Their Habitat
- Rocky Mountain Energy Council Dispute System and Public Involvement Design

TRAININGS, WORKSHOPS & PUBLIC MEETING FACILITATIONS

Completed and Planned Trainings, Workshops & Meeting Facilitations during FY 2003

Continued from FY 2002 and Conducted in FY 2003 (i.e. development began in FY 2002):

- ECR Overview and Everglades Case Study at Columbia University (AZ)
- ECR Overview at University of Arizona (AZ)
- Collaboration Skills for Everglades Interagency Planning Team (FL)
- ADR and NEPA at Duke University (NC)
- Collaborative Action Forest Restoration Program (NM)

Initiated and Conducted in FY 2003:

- BLM Natural Resources ADR/Collaborative Action Advisory Group Workshop (AZ)
- ECR Evaluation and Cost-Effectiveness Overview at the University of Arizona (AZ)
- U.S. State Department-sponsored International Visitors “Introduction to Environmental Conflict Resolution” (AZ)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (CA)
- U.S. Department of the Navy – Training of Navy Environmental Lawyers Relating to Case Assessment Techniques (CA)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (CO)

- DOI IDRC Roster Evaluation Training (DC)
- ALI-ABA NEPA Training (DC)
- EPA Meeting on ECR Evaluation (DC)
- BLM ADR Specialist Steering Committee Meeting – Facilitation and Education (DC)
- Apprentice Mediator Curriculum Development and Training (DC)
- BLM Lower Snake Reflections Workshop – Facilitation and One-Day Learning Loop Meeting Relating to Collaborative Community Planning Activities (ID)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (IN)
- US-China Water Conflict Resolution Study Group (International)
- DOD AN/AI Conflict Resolution Orientation (National)
- EPA Meeting on Environmental ADR (National)
- DOI Conference on the Environment: “Overview of Environmental Conflict Resolution and Emerging Best Practices for Conveners and Participants” (National)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (OR)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (RI)
- Gulf of Mexico Shrimp Summit - Environmental Conflict Resolution Presentation at the Gulf of Mexico Shrimp Summit sponsored by Texas Sea Grant and National Marine Fisheries Service (TX)
- Dixie-Fishlakes National Forest – Facilitation of a one-day learning loop meeting relating to Forest Plan community collaborative activities (UT)

In the Active Planning Stages for delivery in FY 2004

- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (GA)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (NE)
- Colorado River Water Users Association Conference (NV)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (NY)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (MD)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (TX)
- FHWA – Improving Transportation Project Development and Environmental Reviews Through Collaborative Problem Solving: A Facilitated Workshop (TN)
- Dixie-Fishlakes National Forest – Facilitation Services and One-Day Learning Loop Meeting Relating to Collaborative Community Planning Activities (UT)

EXTENDED CASE CONSULTATIONS

Active Consultations during FY 2003

Continued from FY 2002:

- Coconino NF Landscape Scale Assessment (AZ)
- Forest County Partnership Restoration Program (AZ, CO, NM)
- Golden Gate National Recreation Area Pet Leash Controversy (CA)
- Big Sur Transportation Management Plan (CA)
- Giant Sequoia National Monument (CA)
- Wind Turbine Siting Guidelines Collaboration (National)
- Upper Sevier Watershed Management in Dixie National Forest (UT)
- USFWS National Elk Refuge Bison and Elk Management Plan – Phase III (WY)

New Consultations Initiated in FY 2003:

- Alpha Calcite Mining (AZ)
- Bellemont Shooting Range-Coconino National Forest (AZ)
- San Xavier District Mission Mine Complex Assisted Negotiation (AZ)
- Navajo region BIA Forest Management Plan Potential Assessment and Dialogue (AZ)
- San Francisco Bay Restoration Consultation (CA)
- White River National Forest Appeals (included a mini-assessment) (CO)
- FWS Florida Manatee Protection (FL)
- Caribou National Forest Travel Management Planning (ID)
- U.S. District Court for the Eastern District of Michigan (MI)
- BLM Butte Resource Management Plan (MT)
- EPA Mine Scarred Lands (National)
- Pre-conditions for the Use of ADR to Address Individual Trust Management Claims Consultation (National)
- Legacy Parkway (UT)
- U.S. District Court for the District of Utah (UT)
- Vermont Wind Turbine Farm Expansion (VT)
- Gallatin National Forest Travel Management Planning (MT)
- Gila National Forest - Forest Restoration Workshop (West)
- Tulalip Tribe Pilot Tribe-to-Tribe NEPA Consultation and Pilot Training Assistance (South West)

PROJECT REFERRALS FROM THE NATIONAL ROSTER FY 2003

Project Referrals FY 2003 (10/01/02 – 9/30/03)

- Forest Management Policy Recommendations Workshop (AZ)
- National Forest Mining Permit EIS Facilitation (AZ)
- Solid Waste Working Group Presentation (AZ)
- National Park Internal/Staff Development (CA)
- EJ Energy Issues Public Involvement (CA)

- CERCLA Arbitration (D.C.)
- Environmental Stewardship Implementation Meeting Facilitation (D.C.) (Transportation Roster)
- Marine Mammal Stranding Program Facilitation (FL)
- Atlanta Transpo Expansion Environmental Justice Issues (GA) (Transportation Roster)
- BLM Habitat Conservation Plan Workshop (ID)
- Conservation Agreement Negotiation (ID)
- Elk Management Collaboration (ID)
- Fish & Irrigation Collaboration (ID)
- Forest Service Grazing Issues Facilitation (ID)
- Road Build Inter-agency Facilitation (MD) (Transportation Roster)
- NE Tribes Environmental Planning Facilitation (ME)
- I94 Interchange Design Facilitation (MI) (Transportation Roster)
- Superfund Allocation/Arbitration (MI, PA)
- Road Widening Public Input RFQ (MT) (Transportation Roster)
- Colorado River Water Allocation (NM)
- Gila National Forest Restoration Forum (NM)
- Hydro Re-license RFP Team Partner (NC)
- Interagency Protocols Facilitation (OH) (Transportation Roster)
- ACOE Team Building (OR)
- Airport Master Plan Public Inv RFQ Team (OR)
- Allegheny N.F. Plan Team Member (PA)
- SE Coastal Ocean Science Workshop Facilitation (SC)
- DOI BIA Tribal Dispute (TX)
- Superfund Mediation (TX)
- Great Salt Lake Ecosystem Assessment/Process (UT)
- NF Winter Recreation Use Appeal Mediation (UT)
- Legacy Parkway Collaboration (UT) (Transportation Roster)
- Eastern WA/Tribal Dam Re-licensing (WA)
- Narwhale Research Agenda Workshop (WA)
- Salmon Recovery Conference Session Facilitation (WA)
- Ground Water Cleanup Cost Allocation (WY)
- Road Widening Project Facilitation (WY) (Transportation Roster)